(1) (3)

a.d.10d

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR.

WRIT PETITION NO.3775/04.

PETITIONER : Bhuneshwar Prasad Kashyap, age-20 years, S/o. late Ramsanehi Kaushik, R/o. Heeragarh, (Turi), Tah. Nawagarh, Distt. Janjgir-Champa, (Chhattisgarh).

P.R. No. 3618/04 Presented by Shri Sanjay Agrawal dated 26-4-04

V E R S U S

RESPONDENTS : 1) State of Chhattisgarh, through: Secretary Education Department, D.K.S. Bhawan, Raipur, (Chhattisgarh).

2) District Education Officer, Distt. Janjgir-Champa (C.G.).

3) State of M.P. through : Secretary Education Department, Vallabh Bhawan, Bhopal (M.P.).

4) Union of India, through : The Secretary Department of Personal, Public Grievance and personnel, Third Floor Loknayak Bhawan, Khan, Market, New Delhi.

शपथ आयुक्त एम.के. पाण्डेय बिलासपुर तहसील क्लब 2191/a

RECEIVED COPY 30/9/04 Clerk to A. G. Bilaspur

WRIT PETITION U/A. 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT OF MANDAMUS OR ANY OTHER FORM OR DIRECTION OR ORDER AS TO THE FACTS AND CIRCUMSTANCES OF THE CASE.

contd...2...

39

HIGH COURT OF CHHATTISGARH : BILASPUR

WRIT PETITION NO. 1322 OF 2002

Anoop Mishra

Vs.

The State of Chhattisgarh and Others

&

Other connected Writ Petitions

ORDER

(Dated 28th/December, 2005)

40

HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION NO.1322/2002
(Anoop Mishra vs. The State of C.G. & Ors.)

WRIT PETITION NO.1323/2002
(Raj Kumar Thakur vs. The State of C.G. & Ors.)

WRIT PETITION NO.1336/2002
(Rakesh Kumar Dewangan vs. The State of C.G. & Ors.)

WRIT PETITION NO.1752/2002
(Manoj Kumar Bhardwaj vs. State of C.G. & Ors.)

WRIT PETITION NO.2674/2002
(Sanjay Kumar Dewangan vs. The State of C.G. & Ors.)

WRIT PETITION NO.654/2003
(Duman Lal vs. The State of C.G. & Ors.)

WRIT PETITION NO.700/2003
(Jhadu Lal vs. The State of C.G. & Ors.)

WRIT PETITION NO.2204/2003
(Ku. Sangeeta Sahu vs. The State of C.G. & Ors.)

WRIT PETITION NO.2205/2003
(Chalam Rao Karnewar vs. The State of C.G. & Ors.)

WRIT PETITION NO.2213/2003
(Akash Joshi vs. The State of C.G. & Ors.)

WRIT PETITION NO.2270/2003
(Harnarayan Khotel vs. The State of C.G. & Ors.)

WRIT PETITION NO.3464/2003
(Dharmendra Kumar vs. State of C.G. & Ors.)

WRIT PETITION NO.3723/2003
(Bharat Lal Chandravanshi vs. The State of C.G. & Ors.)

WRIT PETITION NO.3848/2003
(Abdul Sahid Ansari vs. The State of C.G. & Ors.)

WRIT PETITION NO.4116/2003
(Ravikant Dove vs. State of C.G. & Ors.)

WRIT PETITION NO.4126/2003
(Sharad Kumar Shrivastava vs. State of C.G. & Ors.)

WRIT PETITION NO.731/2004
(Dumendra Singh Pisda vs. The State of C.G. & Ors.)

WRIT PETITION NO.790/2004
(Ved Prakash Sharma vs. The State of C.G. & Ors.)

WRIT PETITION NO.801/2004
(Lukeshwar Kumar Sahu vs. State of C.G. & Ors.)

WRIT PETITION NO.870/2004
(Azffar Ahmed Siddiqui vs. The State of C.G. & Ors.)

WRIT PETITION NO.871/2004
(Anurag Chandra vs. The State of C.G. & Ors.)

WRIT PETITION NO.1135/2004
(Santosh Kumar Sahu vs. The State of C.G. & Ors.)

WRIT PETITION NO.1211/2004
(Smt. Puleshwari Yadav vs. State of C.G. & Ors.)

WRIT PETITION NO.1575/2004
(Tarun Kumar Kashyap vs. The State of C.G. & Ors.)

WRIT PETITION NO.1687/2004
(Manish Kumar Tripathi vs. The State of C.G. & Ors.)

WRIT PETITION NO.1778/2004
(Dev Singh Gond vs. The State of C.G. & Ors.)

WRIT PETITION NO.1833/2004
(Neelkant Sahu vs. The State of C.G. & Ors.)

WRIT PETITION NO.1844/2004
(Durgesh Wakde vs. The State of C.G. & Ors.)

WRIT PETITION NO.1877/2004
(Chandrika Prasad Yadav vs. The State of C.G. & Ors.)

WRIT PETITION NO.1878/2004
(Shailendra Singh vs. The State of C.G. & Ors.)

WRIT PETITION NO.1884/2004
(Mukesh Goswami vs. The State of C.G. & Ors.)

WRIT PETITION NO.2087/2004
(Lakeshwar Prasad Dewangan vs. The State of C.G. & Ors.)

WRIT PETITION NO.2162/2004
(Yashwant Kumar Shyamley vs. The State of C.G. & Ors.)

WRIT PETITION NO.2218/2004
(Shyam Kumar Patel vs. The State of C.G. & Ors.)

WRIT PETITION NO.2219/2004
(Ku. Geeta Diwaker vs. The State of C.G. & Ors.)

WRIT PETITION NO.2220/2004
(Bodharam Naik vs. The State of C.G. & Ors.)

WRIT PETITION NO.2367/2004
(Ajit Kumar Nair & Ors. vs. The State of C.G. & Ors.)

WRIT PETITION NO.2428/2004
(Sanjay Kumar Ekka vs. The State of C.G. & Ors.)

WRIT PETITION NO.2519/2004
(Rizwana Parveen vs. The State of C.G. & Ors.)

42

WRIT PETITION NO.2551/2004
(Ramesh Kumar Sahu vs. The State of C.G. & Ors.)

WRIT PETITION NO.2562/2004
(Safdar Ahmed Mansuri vs. The State of C.G. & Ors.)

WRIT PETITION NO.2567/2004
(Ram Sajeevan Kashyap vs. The State of C.G. & Ors.)

WRIT PETITION NO.2582/2004
(Prahlad Yadav vs. The State of C.G. & Ors.)

WRIT PETITION NO.2613/2004
(Santosh Kumar Sahu vs. State of C.G. & Ors.)

WRIT PETITION NO.2615/2004
(Damodar Prasad Dewangan vs. State of C.G. & Ors.)

WRIT PETITION NO.2617/2004
(Keshav Prasad Dewangan vs. State of C.G. & Ors.)

WRIT PETITION NO.2631/2004
(Mahendra Kumar Yadav vs. State of C.G. & Ors.)

WRIT PETITION NO.2632/2004
(Sanjay Kumar Sahu vs. State of C.G. & Ors.)

WRIT PETITION NO.2633/2004
(Ashok Kumar Verma vs. State of C.G. & Ors.)

WRIT PETITION NO.2635/2004
(Durga Prasad Yadav vs. State of C.G. & Ors.)

WRIT PETITION NO.2644/2004
(Sanjeev Kumar Yadav vs. State of C.G. & Ors.)

WRIT PETITION NO.2645/2004
(Mahendra Kumar Jangde vs. State of C.G. & Ors.)

WRIT PETITION NO.2646/2004
(Praveen Kumar Nair vs. State of C.G. & Ors.)

WRIT PETITION NO.2736/2004
(Sharad Kumar Shrivastava vs. State of C.G. & Ors.)

WRIT PETITION NO.2756/2004
(Smt. Neeta Agrawal vs. State of C.G. & Ors.)

WRIT PETITION NO.2796/2004
(Manesh Kumar Ramteke vs. State of C.G. & Ors.)

WRIT PETITION NO.2805/2004
(Rohit Kumar Patel vs. State of C.G. & Ors.)

WRIT PETITION NO.2865/2004
(Dinesh Kumar Pankaj vs. Union of India & Ors.)

WRIT PETITION NO.2866/2004
(Devesh Kumar Tiwari vs. State of C.G. & Ors.)

43

WRIT PETITION NO.2883/2004
(A. Chandra Shekhar Dora vs. State of C.G. & Ors.)

WRIT PETITION NO.2895/2004
(Pushpendra Kumar Kaushik vs. The State of C.G. & Ors.)

WRIT PETITION NO.2923/2004
(Balram Sahu vs. State of C.G. & Ors.)

WRIT PETITION NO.2933/2004
(Ramesh Kumar Yadav vs. The State of C.G. & Ors.)

WRIT PETITION NO.2934/2004
(Kumari Gend Kumari vs. State of C.G. & Ors.)

WRIT PETITION NO.2935/2004
(Ashok Kumar Yadav vs. State of C.G. & Ors.)

WRIT PETITION NO.2937/2004
(Smt. Kiran Bai Yadav vs. State of C.G. & Ors.)

WRIT PETITION NO.2938/2004
(Jhumuklal Sahu vs. State of C.G. & Ors.)

WRIT PETITION NO.2939/2004
(Rakesh Kumar Sahu vs. State of C.G. & Ors.)

WRIT PETITION NO.2941/2004
(Sumant Kumar Pakera vs. State of C.G. & Ors.)

WRIT PETITION NO.2942/2004
(Sunil Kumar Sinha vs. State of C.G. & Ors.)

WRIT PETITION NO.2948/2004
(Hulesh Kumar Rakesh vs. State of C.G. & Ors.)

WRIT PETITION NO.2954/2004
(Ajit Kumar Yadav vs. State of C.G. & Ors.)

WRIT PETITION NO.3045/2004
(Ajay Kumar Jangde vs. State of C.G. & Ors.)

WRIT PETITION NO.3105/2004
(Sayied Sabir Ali vs. Union of India & Ors.)

WRIT PETITION NO.3106/2004
(Bisesar Ram Nishad vs. Union of India & Ors.)

WRIT PETITION NO.3107/2004
(Satish Swami Sonwani vs. Union of India & Ors.)

WRIT PETITION NO.3161/2004
(Dinesh Kumar Shukla vs. State of C.G. & Ors.)

WRIT PETITION NO.3196/2004
(Shiv Narayan Kaushik vs. Union of India & Ors.)

WRIT PETITION NO.3224/2004
(Shailesh Kumar Sahu vs. State of C.G. & Ors.)

44

WRIT PETITION NO.3258/2004
(Tarachand Sahu vs. State of C.G. & Ors.)

WRIT PETITION NO.3454/2004
(Tikeshwar Prasad Sahu vs. Union of India & Ors.)

WRIT PETITION NO.3455/2004
(Surendra Kumar Siddar vs. Union of India & Ors.)

WRIT PETITION NO.3456/2004
(Girdhar Lal Dhidhi vs. Union of India & Ors.)

WRIT PETITION NO.3461/2004
(Prem Lal Sahu vs. State of C.G. & Ors.)

WRIT PETITION NO.3517/2004
(Ku. Priti Sharma vs. State of C.G. & Ors.)

WRIT PETITION NO.3518/2004
(Laxman Chauhan vs. State of C.G. & Ors.)

WRIT PETITION NO.3551/2004
(Rajendra Kumar Sahu vs. State of C.G. & Ors.)

WRIT PETITION NO.3554/2004
(Ishwar Dayal Kanwar vs. State of C.G. & Ors.)

WRIT PETITION NO.3563/2004
(Shveta Dwivedi vs. State of C.G. & Ors.)

WRIT PETITION NO.3579/2004
(Rajesh Kumar Sao vs. State of C.G. & Ors.)

WRIT PETITION NO.3589/2004
(Ku. Shanti Chandrakar vs. State of C.G. & Ors.)

WRIT PETITION NO.3635/2004
(Smt. Maheshwari Sahu vs. Union of India & Ors.)

WRIT PETITION NO.3673/2004
(Rakesh Kumar Shandilya vs. State of C.G. & Ors.)

WRIT PETITION NO.3724/2004
(Devilal Korram vs. State of C.G. & Ors.)

WRIT PETITION NO.3739/2004
(Pratap Patel vs. State of C.G. & Ors.)

WRIT PETITION NO.3775/2004
(Bhuneshwar Prasad Kashyap vs. State of C.G. & Ors.)

WRIT PETITION NO.3879/2004
(Dinesh Kumar Patel vs. Union of India & Ors.)

WRIT PETITION NO.3881/2004
(Santosh Kumar Patel vs. Union of India & Ors.)

WRIT PETITION NO.4049/2004
(Rupesh Kumar Mehta vs. State of C.G. & Ors.)

WRIT PETITION NO.4139/2004
(Chandra Shekhar Sahu vs. State of C.G. & Ors.)

45

WRIT PETITION NO.4201/2004
(Mathura Prasad Sahu vs. Union of India & Ors.)

WRIT PETITION NO.4239/2004
(Sevak Ram Patel vs. Union of India & Ors.)

WRIT PETITION NO.4241/2004
(Santosh Kumar Verma vs. The State of C.G. & Ors.)

WRIT PETITION NO.4242/2004
(Anand Kumar Nishad vs. The State of C.G. & Ors.)

WRIT PETITION NO.4243/2004
(Surendra Kumar Sahu vs. The State of C.G. & Ors.)

WRIT PETITION NO.4253/2004
(Umesh Singh vs. The State of C.G. & Ors.)

WRIT PETITION NO.4268/2004
(Yogesh Kumar Nag vs. The State of C.G. & Ors.)

WRIT PETITION NO.4284/2004
(Radhye Shyam Suryawansi vs. State of C.G. & Ors.)

WRIT PETITION NO.4331/2004
(Sanjeev Kumar Sahu vs. State of C.G. & Ors.)

WRIT PETITION NO.4341/2004
(Kishori Lal Jaiswal vs. State of C.G. & Ors.)

WRIT PETITION NO.4384/2004
(Smt. Yalam Parwati vs. State of C.G. & Ors.)

WRIT PETITION NO.4474/2004
(Smt. Yasmin Begum vs. State of C.G. & Ors.)

WRIT PETITION NO.4518/2004
(Bhekh Lal Kumbhakar vs. State of C.G. & Ors.)

WRIT PETITION NO.4573/2004
(Santosh Singh Rajput vs. Union of India & Ors.)

WRIT PETITION NO.4579/2004
(Aashutosh Pratap Singh vs. State of C.G. & Ors.)

WRIT PETITION NO.4589/2004
(Anil Kumar Dhruv vs. State of C.G. & Ors.)

WRIT PETITION NO.4700/2004
(Duyodhan Prasad vs. State of C.G. & Ors.)

WRIT PETITION NO.4701/2004
(Manoj Kumar Patnaik vs. State of C.G. & Ors.)

WRIT PETITION NO.4706/2004
(Rakesh Kumar Dilliwar vs. State of C.G. & Ors.)

WRIT PETITION NO.4774/2004
(Lakhan Kumar Nishad vs. State of C.G. & Ors.)

46

WRIT PETITION NO.4776/2004
(Ramnik Lal Yadav vs. State of C.G. & Ors.)

WRIT PETITION NO.4862/2004
(Amzad Khan vs. The State of C.G. & Ors.)

WRIT PETITION NO.4878/2004
(Manish Panda vs. State of C.G. & Ors.)

WRIT PETITION NO.4879/2004
(Mukesh Kumar Sahu vs. State of C.G. & Ors.)

WRIT PETITION NO.4885/2004
(Om Prakash Gupta vs. State of C.G. & Ors.)

WRIT PETITION NO.4947/2004
(Vikas Kumar Gedam vs. The State of C.G. & Ors.)

WRIT PETITION NO.4989/2004
(Ku. Mamta Yadu vs. The State of C.G. & Ors.)

WRIT PETITION NO.372/2005
(Ku. Harsha Singh vs. State of C.G. & Ors.)

WRIT PETITION NO.735/2005
(Mukesh Kumar Soni vs. Union of India & Ors.)

WRIT PETITION NO.1031/2005
(Kunal Sinha vs. State of C.G. & Ors.)

WRIT PETITION NO.1099/2005
(Siddharath Shukla vs. State of C.G. & Ors.)

WRIT PETITION NO.1104/2005
(Shailendra Kumar Pandey vs. Union of India & Ors.)

WRIT PETITION NO.1139/2005
(Umesh Kumar Biranwar vs. Union of India & Ors.)

WRIT PETITION NO.1194/2005
(Sunil Kumar Chhugani vs. Union of India & Ors.)

WRIT PETITION NO.1198/2005
(Balaram Patel vs. State of C.G. & Ors.)

WRIT PETITION NO.1256/2005
(Yugal Kishor Sahu vs. State of C.G. & Ors.)

WRIT PETITION NO.1286/2005
(Tekram Sahu vs. State of C.G. & Ors.)

WRIT PETITION NO.1663/2005
(Bhuneshwar Khare vs. State of C.G. & Ors.)

WRIT PETITION NO.1756/2005
(Vishwas Kumar Tiwari vs. State of C.G. & Ors.)

WRIT PETITION NO.1759/2005
(Ku. Dipti Patel vs. State of C.G. & Ors.)

47

WRIT PETITION NO.1806/2005
(Suresh Mishra vs. State of C.G. & Ors.)

WRIT PETITION NO.1904/2005
(Ramant Kumar Thakur vs. State of C.G. & Ors.)

WRIT PETITION NO.1962/2005
(Rakesh Kumar Nayak vs. State of C.G. & Ors.)

WRIT PETITION NO.1979/2005
(Smt. Shakun Bai vs. Union of India & Ors.)

WRIT PETITION NO.2724/2005
(Rita Sharma vs. State of C.G. & Ors.)

WRIT PETITION NO.3192/2005
(Bhikari Das vs. State of C.G. & Ors.)

WRIT PETITION NO.3464/2005
(Vivek Dhar Diwan vs. State of C.G. & Ors.)

WRIT PETITION NO.5663/2005
(Smt. Maya Devi Sonwani vs. State of C.G. & Ors.)

WRIT PETITION NO.5758/2005
(Smt. Sanjukta Sahu vs. Union of India & Ors.)

WRIT PETITION NO.5992/2005
(Dhanjay Patil vs. State of C.G. & Ors.)

Shri V.D. Bajpai, Sr. Advocate Shri P. Diwakar, Sr. Advocate, Shri Manindra Shrivastava, Sr. Advocate, Shri Ashish Shrivastava, Shri Afroz Khan, Ku. Sunita Jain, Shri Kunal Das, Shri Ashok Das Vaishnav, Shri R.N. Jha, Ku. Meenu Benarjee, Shri Somnath Verma, Shri Gautam Khetrapal, Ku. Deepali Pandey, Shri Sanjay Kumar Agrawal, Shri Aneesh Pandey, Shri Manoj Paranjape, Shri Sanjay Agrawal, Shri Vijay Deshmukh, Shri M.K. Bhaduri, Shri Ajit Singh, Shri Sushil Dubey, Shri Rakesh Jha, Shri D.R. Patel, Shri A.N. Bhakta, Shri G.R. Miri, Smt. Indira Tripathi, Shri Virendra Sharma, Shri Anand Tiwari, Shri Sudhir Verma, Shri P.P. Sahu, Shri H.S. Ahuiwalia, Ku. Maya Singh, Ku. Abilasha Naidu, Shri Sameer Behar, Shri Satyendra Sahu, Shri Deepak Jain, Shri Prakash Tiwari, Shri S.R.J. Jaiswal, Shri Vinay Pandey, Smt. Renu Kochar, Shri Narendra Chandel, Shri Sunil Sahu, Shri Pankaj Shrivastava, Shri V.K. Pandey, Shri Alok Dewangan, Shri Praveen Das, Shri Manoj Mishra, Shri Avinash K. Mishra, Shri Ranbir Singh Marhas, Shri B.P. Gupta, Shri R.N. Mukhopadhyay, Shri L.C. Dash, Shri I.S. Sahu, Shri Rakesh Antony, Advocates etc. for the petitioners.

Shri V.V.S. Moorthy, Dy. Advocate General, Shri P.S. Koshy, Dy. Advocate General, Shri Sandeep Dubey, Govt Advocate, Shri Ramakant Mishra, Govt. Advocate, Shri A.S. Kachhawaha, Dy. G.A., Shri Satish Gupta, Dy.G.A. & Shri Vivek Sharma, Panel Lawyer for the State of Chhattisgarh.

Shri S.K. Beriwal, Senior Panel Lawyer for the Union of India.

48

ORDER

Per Hon. Shri Fakhruddin, J :

The above writ petitions have been heard analogously and are being disposed of by this common order.

2. The aforesaid matters relate to compassionate appointment consequent upon the death of an employee serving in the State. These matters are pending consideration before this Court and have been heard from time to time on various dates. Some of these cases were listed on 17-11-2004 and 23-12-2004. Learned counsel for the State of Chhattisgarh had pointed out on earlier date that there was a policy in force for compassionate appointment, but the State of Madhya had issued certain orders on 1-5-2000 imposing restrictions and limitations on compassionate appointment. Meanwhile, Re-organization Act came into existence on 1-11-2000. It was further submitted that on 28/29-6-2002 orders were issued by the State of Chhattisgarh to the effect that till further instructions the compassionate appointment orders be kept in abeyance. It was also submitted that the State of Chhattisgarh framed a policy on 10-6-2003 under Executive power by order and in the name of the Governor of Chhattisgarh whereby it was decided that those persons who have died on or after 1-11-2000 i.e. after the formation of State of Chhattisgarh, only their cases will be considered and not those who have died prior to 1-11-2000. In view of this stand taken by the counsel for the State of Chhattisgarh, the State of Madhya Pradesh and the Union of India were noticed and that is why the State of Madhya Pradesh and the Union of India are the parties in some of the cases.

3. The matters were again listed on 18-11-2005. Time was granted to the parties including Union of India to file appropriate reply and come forward with a decision/view as to what is the stand of the Union of India.

4. It is appropriate to state that the appointment on compassionate ground is not a source of recruitment but merely an exception to the requirement regarding appointments being made on open invitation of application on merits. Basic intention is that on the death of employee concerned his family is not deprived of the means of livelihood. The object is to enable the family to get over sudden financial crisis. The claims are to be considered as reasonable and permissible on the basis of sudden crisis occurring in the family of such employee who has served the State and dies while in service.

5. So far as the present cases are concerned, learned Dy. Advocate Generals made a statement that the State of Chhattisgarh has taken a decision to consider the cases three years prior to reorganization i.e. those

49

State employees whose death occurred on or after 1-11-1997 and strictly in accordance with the policy prevalent at the time of death of an employee. This statement is recorded.

6. Learned counsel appearing for the respective petitioners in the bunch of cases categorically stated that in each and every case the death of the employee has occurred on or after 1-11-1997 and not earlier. Learned counsel further submitted that their cases may be considered and decision may be taken at the earliest. They also submitted that the petitioners will render due cooperation to the authorities. This statement is also recorded.

7. Learned counsel for the State submit that in every petition three sets have been filed by the petitioners; in some cases extra sets are required by them which may be allowed to be taken by them from the Court record. The State counsel may take the extra sets from the office wherever they require. They also pray for three months time to decide the cases of the petitioners.

8. In view of the submissions made by learned counsel appearing for the parties, without expressing any opinion on the merits of the case, in the opinion of this Court, ends of justice will be served if a direction is given to the State and the authorities concerned to consider and decide the cases of the petitioners/dependants of the employees who died on 1-11-1997 and thereafter in accordance with the policy which was in force at the time of death of the employee. Each and every individual case will be decided and if the person found eligible, appointment orders will be issued as early as possible on or before **30th April, 2006**. The petitioners are also directed to render due co-operation to the authorities. It is made clear that if any grievance still remains, the petitioners may avail the remedy available under the law including filing of the petition before this Court.

9. Subject to the aforesaid directions and observations, all these petitions stand disposed of with the aforesaid liberty.

10. Consequently, pending applications, if any, also stand disposed of. In some cases, applications seeking formal amendments regarding correction of cause-title, etc. have been filed. They are allowed. The amendment be incorporated and the corrections, if any, be made.

11. A copy of this order be placed in all the connected cases.

Certified copy as per rules.

Copy of this order be also supplied to the State counsel.

Sd/-
Fakhruddin
Judge

Cowtl/P/H*